



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3873/2024

Rambhau Sahadeo Wankhade,
Aged about 58 years,
Occ. Agriculturist,
Permanent resident of Datvi,
Tq. Murtizapur, Dist. Akola,
At present residing at Guru Govind
Colony, Tikriya Road, House No.
43, Indore, Dist. Indore (M.P.)

... PETITIONER

...VERSUS...

1. Awadhut Sahadeo Wankhade,
Aged about 65 years,
Occ. Agriculturist,
R/o Village Datvi, Tq. Murtizapur,
Dist. Akola.
2. The Additional Divisional
Commissioner, Amravati
Division, Amravati.
3. Additional Collector, Akola,
Tq. And Dist. Akola.
4. Sub Divisional Officer,
Murtizapur, Tq. Murtizapur,
Dist. Akola.
5. Naib Tahsildar, Murtizapur,
Tq. Murtizapur, Dist. Akola.

6. State of Maharashtra,
Through the Secretary,
Mantralaya, Mumbai.

...RESPONDENTS

Shri J.B. Gandhi, Advocate for petitioner
Shri R.D. Karode, Advocate for respondent No. 1
Shri H.D. Dubey, AGP for respondent/State

CORAM : SMT. M. S. JAWALKAR, J.

DATED : 07/03/2025

ORAL JUDGMENT

Heard learned Counsel for petitioner, learned Counsel
for respondent No.1 and learned AGP for State.

2. By consent, matter is taken up for final hearing at the
stage of admission.

3. The present petition is filed challenging the order
passed by the Additional Commissioner, Amravati Division,
Amravati, in respect of Revision Application
No.323/RTS-59/Mangrul Kambe/Akola/2022, dated 04/03/2024.

4. It is the contention of the petitioner that respondent No.1 has sold agricultural land at village Datvi, in favour of Bansilal Rambhau Bhatkar. The said Bansilal Bhatkar has executed the registered sale deed in respect of above said land in favour of petitioner dated 05/07/2020 for valuable consideration. The respondent No.1 has filed Regular Civil Suit No. 115/2012 in the Court of Civil Judge Junior Division, Murtizapur, claiming therein that he is in possession and, therefore, filed suit for perpetual injunction. The said suit was dismissed on 07/01/2022, by learned Civil Judge Junior Division, Murtizapur, by holding that respondent No.1 herein has failed to prove that he is the owner and in cultivating possession of the suit property. Regular Civil Appeal No. 31/2022 in the Court of District Judge-II, Akola, also came to be dismissed on 04/04/2024.

5. The petitioner applied for effecting the mutation in record of rights before Naib Tahsildar. The said application came to be rejected. However, the petitioner preferred Revision Appeal No. RTS-59/Mangrul Kambe/8/13-14 before the Sub-Divisional Officer, Murtizapur, against the order passed by Naib Tahsildar, which also

came to be rejected. The petitioner preferred Second Appeal before the Additional Collector, Akola, which is allowed by the Additional Collector.

6. The respondent No.1 has filed Revision Application on 06/10/2022, challenging the order dated 17/03/2018, before the Additional Divisional Commissioner, Amravati, vide Revision Application No. 323/RTS-59/Mangrul Kambe/2022, along with an application for condonation of delay.

7. The petition is filed only on the ground that the respondent herein suppressed the fact that the Regular Civil Suit No. 115/2012 came to be dismissed on 07/01/2022, with specific finding that respondent No.1/plaintiff therein, failed to prove that he is the owner or in cultivating possession of the suit property. Admittedly, the application is filed on 06/10/2022 and suit came to be dismissed on 07/01/2022. This fact is also not disputed by the learned Assistant Government Pleader that respondent No.1 has suppressed the said facts from the authority. Another ground for filing writ petition is that no opportunity was granted by the

authority. No notices were issued in the said revision, even without deciding application for condonation of delay, the impugned order came to be passed.

8. The learned Counsel for respondent drawn my attention that in paragraph No. 3, he has mentioned about the Civil Suit filed by respondent No.1. However, it appears that this fact of dismissal of suit or its number is not given in the contents of the application.

9. In my considered opinion, the order passed by the learned Additional Commissioner, Amravati Division, Amravati on the face of record is illegal and perverse and also passed without following principles of natural justice. Admittedly, there was no order passed on application for condonation of delay, specifically when delay is of near about three years. There is nothing on record to show that the notice of the said appeal was issued to the respondents to grant them fair opportunity to defend the same. Moreover, applicant has suppressed material facts about the dismissal of the suit, even the appeal filed by the respondent No.1 is

also dismissed during the pendency of this petition. These facts are required to be taken into consideration by the Additional Commissioner, Amravati Division, Amravati.

10. Learned Assistant Government Pleader in reply itself submitted that these facts are not placed on record by the respondents. As such, order dated 04/03/2024 in Rev. Application No.323/RTS-59/Mangrul Kambe/22, passed by the Additional Commissioner, Amravati Division, Amravati, is liable to be quashed and set aside and matter needs to be remanded back. Accordingly, I proceed to pass the following order:

ORDER

- i) The Writ Petition is partly allowed.
- ii) The order dated 04/03/2024 in Rev. Application No.323/RTS-59/Mangrul Kambe/22, passed by the Additional Commissioner, Amravati Division, Amravati, is hereby quashed and set aside.
- iii) The matter is remitted back to the Additional Commissioner, Amravati Division, Amravati to consider it afresh and to grant fair opportunity to both the parties.

iv) Learned Additional Commissioner, Amravati Division, Amravati, is also directed to decide first the application for condonation of delay.

v) All these exercise shall be completed within a period of six weeks from the appearance of the parties.

vi) Parties to appear before the learned Additional Commissioner, Amravati, on 21/03/2025 at 11:00 a.m.

vii) The entries which are taken on the basis of order passed by the Additional Commissioner, Amravati Division, Amravati shall not take effect till the decision in appeal.

The Writ petition is disposed of in above terms. No order as to the costs.

Jayashtee....

(Smt. M.S. Jawalkar, J.)